

APPEAL NO. 041852
FILED SEPTEMBER 20, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 29, 2004. The hearing officer determined that the appellant's (claimant) compensable (right shoulder) injury does not include an injury to the neck.

The claimant appeals on sufficiency of the evidence grounds. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant, a machine operator, sustained a compensable injury on _____. The carrier accepted a right shoulder injury and the claimant had right rotator cuff repair surgery on January 3, 2003. The claimant has seen a number of doctors and the record contains conflicting medical opinions.

An extent-of-injury issue is essentially a factual determination for the hearing officer to resolve. In this case the hearing officer commented that the claimant's cervical complaints were from degenerative problems which are part of the normal aging process. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**JIM MALLOY
8144 WALNUT HILL LANE, SUITE 1600
DALLAS, TEXAS 75231.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge